

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

UNITED STATES OF AMERICA,

Case No. 6:12-cr-00493-AA

Plaintiff,

**STIPULATION AND ORDER
VACATING AND SETTING ASIDE
SENTENCE PURSUANT TO 28
U.S.C. § 2255**

v.

KEVIN ROWDY HURST,

Defendant.

This matter is before the Court on defendant's motion to vacate or correct his sentence pursuant to 28 U.S.C. § 2255. Based on the Supreme Court's decisions in *Johnson v. United States*, 135 S. Ct. 2551 (2015) and *Welch v. United States*, 136 S. Ct. 1257 (2016), the parties agree to resolve this matter, without precedential value in any other case, as follows:

The sentence in this case should be vacated and set aside; a hearing be set for resentencing on November 22, 2016 at 2:00 p.m.; the defendant should be sentenced to a

term of imprisonment of 63 months; a condition of supervised release should be added requiring that the defendant be placed in a residential reentry center for up to 180 days, Oregon Community Justice Transition Center in Medford, Oregon recommended; the Statement of Reasons should be amended to reflect a guideline range of 51 to 63 months, based on Total Offense Level 17 and Criminal History Category VI; and the defendant shall remain detained in the custody of the Bureau of Prisons pending resentencing.

Based on the above, and the Court concurring,

IT IS HEREBY ORDERED that the sentence imposed on June 18, 2013, is hereby vacated and set aside.

IT IS FURTHER ORDERED that the United States Bureau of Prisons and the United States Marshals Service produce the defendant to the Court for resentencing on November 22, 2016.

IT IS FURTHER ORDERED, based on the stipulation of the parties, that the defendant shall remain detained in the custody of the Bureau of Prisons pending resentencing.

Dated this 4th day of October, 2016.



Honorable Ann Aiken
United States District Court Judge